

Credit unions; organization insuring deposits in state-chartered credit unions. An organization created after August 31, 1957, for the purpose of insuring individuals' deposits in state-chartered credit unions does not qualify for exemption under either section 501(c)(6) or section 501(c)(14)(B) of the Code.

ISSUE

Under the circumstances described below, does an organization, created after August 31, 1957, for the purpose of protecting individuals' deposits in credit unions qualify for exemption from federal income tax under section 501(c)(6) or section 501(c)(14)(B) of the Internal Revenue Code of 1954?

FACTS

The organization was created after August 31, 1957, as a nonprofit membership corporation pursuant to a state statute. All non-federal credit unions within the state are required by the statute to be members. The organization's purposes, as set out in the statute, are to aid and assist any member credit union that develops financial difficulties so that the savings of an individual member of a credit union shall be protected or guaranteed to a specified maximum amount, and to cooperate with its member credit unions and the state official responsible for their supervision in promoting the general welfare of credit unions within the state. The organization is under the exclusive supervision of that state official and is subject to an annual audit by the official.

The organization engages in two activities. First, to protect depositors from losses arising from insolvency, the organization insures the shareholdings of individual depositors up to a specified maximum amount. Secondly, the organization may provide interest-free loans to member credit unions in appropriate circumstances where such loans may prevent insolvency and possible liquidation, and thus reduce or avoid possible claims by insured depositors.

The organization's income is from dues paid by the member credit unions. Expenditures are for the financial assistance provided to the credit unions and for administrative expenses.

LAW AND ANALYSIS

Section 501(c)(6) of the 1954 Code provides for the exemption from federal income tax of business leagues not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 501(c)(14)(B) of the 1954 Code provides for the

exemption of corporations or associations without capital stock organized before September 1, 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for, and insurance of shares or deposits in-

- (i) domestic building and loan associations,
- (ii) cooperative banks without capital stock organized and operated for mutual purposes and without profit, or
- (iii) mutual savings banks not having capital stock represented by shares.

Before 1951, section 101(4) of the Internal Revenue Code of 1939, the predecessor of section 501(c)(14) of the 1954 Code, exempted from federal income tax "domestic building and loan association substantially all the business of which is confined to making loans to members; and cooperative banks without capital organized for mutual purposes and without profit."

Although section 101(4) of the 1939 Code did not specifically identify credit unions, the Service considered them to be within the general meaning of "cooperative banks." See Opinion of the Attorney General, 31 O.A.G. 176 (1917). See also Rev. Rul. 69-282, 1969-1 C.B. 155.

Thus, the term "cooperative banks," as used in section 501(c)(14)(B)(ii) of the 1954 Code, includes credit unions. It follows that a corporation or association organized before September 1, 1957, which insures shares or deposits in credit unions, can qualify for exemption under section 501(c)(14)(B).

However, general rules of statutory construction provide that section 501(c)(14)(B) of the Code must prevail over the more general provisions of section 501(c)(6) relating to business leagues. See *HCSC-Laundry v. U.S.*, 450 U.S. 1 (1981). In addition, the legislative history of section 501(c)(14)(B) of the 1954 Code indicates a legislative intention to deny federal tax exemption to savings insurance organizations other than those specified in that section. Congress has refused to extend the September 1, 1957, cutoff date of section 501(c)(14)(B). This refusal was based, in part, on the conclusion that extending the date might lead to a proliferation of state insurers that could hinder the operations and threaten the financial stability of the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation. See Hearings before Senate Committee on Finance on H.R. 3297, 88th Cong., 2nd Sess., 9-10 (1964). See also *United States v. Maryland Savings-Share Insurance Corporation*, 400 U.S. 4, 5-6 (1970), and *Maryland Savings-Share Insurance Corporation v. U.S.*, No. 154-75 (Ct.Cl. Trial Judges' Op., 2-26-80), and the citations contained therein. Similarly, a proliferation of state insurers could have an adverse impact on the National Credit Union Share Insurance Fund.

Therefore, organizations providing insurance of shares or deposits can qualify for exemption only if they satisfy the specific requirements of section 501(c)(14)(B) of the 1954 Code. Savings insurance organizations cannot qualify for exemption under the more general requirements of section 501(c)(6) because qualification under that section would contradict the legislative intent to deny tax exempt status to such organizations not described in section 501(c)(14)(B).

The organization in this case conducts two activities, both of which are directed towards protecting depositors in member credit unions. First, it directly insures deposits in member credit unions. In addition, as an incident of its insurance activity, the organization provides interest-free loans to member credit unions when appropriate to enable them to avoid insolvency or possible liquidation, thereby reducing or avoiding possible claims by insured depositors. Thus, the organization's primary activity constitutes the insurance of shares or deposits within the meaning of section 501(c)(14)(B) of the 1954 Code. However, the organization does not qualify for exemption under section 501(c)(14)(B) because it was created after August 31, 1957. See *United States v. Maryland Savings-Share Insurance Corporation*. Additionally, it does not qualify for exemption under section 501(c)(6) for the reasons discussed above.

HOLDING

An organization, created after August 31, 1957, for the purpose of protecting individuals' deposits in credit unions, under the circumstances described above, does not qualify for exemption from federal income tax under section 501(c)(6) or section 501(c)(14)(B) of the 1954 Code.

PROSPECTIVE APPLICATION

Under the authority contained in section 7805(b) of the Code, this revenue ruling will be applied only to taxable years beginning after November 7, 1983, in the case of any organization of the type described herein.